

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

OCT - 9 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)

CC Docket No. 96-128

File No. NSD-L-99-34

COMMENTS OF THE
AMERICAN PUBLIC COMMUNICATIONS COUNCIL
ON PETITIONS FOR RECONSIDERATION/CLARIFICATION

Albert H. Kramer
Robert F. Aldrich

2101 L Street, N.W.
Washington, DC 20037-1526
(202) 828-2226

Attorneys for the American Public
Communications Council

October 9, 2001

No. of Copies rec'd
List ABCDE

0+11

TABLE OF CONTENTS

SUMMARY.....	i
I. THE COMMISSION SHOULD RECOGNIZE THAT IXC _s MAY REASONABLY CHOOSE TO TREAT CALLS COMPLETED TO RESELLERS' SWITCHES AS COMPENSABLE CALLS	2
II. ANY MODIFICATION OF THE REPORTING REQUIREMENTS MUST BE CAREFULLY CRAFTED.....	3
A. The Reporting Requirements Are Reasonable and Fully Justified.....	3
B. The Reporting Requirements May Be Modified Somewhat in Those Cases Where Only One Carrier Is Involved in Tracking the Call	6
III. WHILE THE CLARIFICATION REQUESTED BY BULLETINS IS NOT NECESSARY, THE COMMISSION SHOULD UTILIZE THIS OPPORTUNITY TO EXPLAIN THE APPLICATION OF ITS RULES TO LEC _s THAT CARRY COMPENSABLE CALLS	11
IV. IMPLEMENTATION DATE.....	12

SUMMARY

The Commission should grant the petitions for clarification/reconsideration of AT&T and WorldCom to the extent of ruling that interexchange carriers (“IXCs”) may elect to treat calls handed off to switch-based resellers as completed calls for purposes of payphone compensation. Such treatment enables carriers to reduce their administrative costs, greatly simplifies the compensation system, and avoids the major disputes that otherwise would be likely to arise regarding whether or not calls are completed to resellers.

On the other hand, the Commission should deny the requests of AT&T, WorldCom, and Global Crossing to eliminate the requirement for IXC reporting of call detail to payphone service providers (“PSPs”). This requirement is fully justified by the record of the proceeding. Reporting call detail to PSPs is especially critical when calls are routed to switch-based resellers (and are not treated as complete upon termination to the reseller’s switch), for the simple reason that such resellers as a group have shown they cannot be relied upon to track payphone calls. But call detail is also very important for calls that involve only a facilities-based IXC, due to the limitations of PSPs’ abilities to audit IXCs’ inevitably self-interested determinations as to compensable calls. IXCs have not shown that the provision of such call detail, most of which must be collected by IXCs in any event, is unduly burdensome.

While APCC opposes the specific relief requested by the IXCs’ petitions as to call detail requirements, APCC and other parties have participated in discussions and have reached consensus on principles in this area that balance the concerns of carriers and PSPs. Under the draft rule attached to APCC’s comments, which APCC believes fairly reflects the consensus reached, carriers would have a range of payment options with call detail

requirements coordinated with the level of responsibility assumed for payment by IXC's or resellers.

Subsection 64.1310(a)(2) of the draft amendments would apply reduced reporting requirements to calls that can be tracked to completion within the IXC's own network. For those calls, IXC's would be required to disclose, for each payphone, the monthly volumes of calls, and the percentages of calls completed, in each of four categories: (1) subscriber toll-free calls; (2) prepaid card calls terminated by the IXC's facilities; (3) 0+ and 101XXXX-0+ calls terminated by the IXC's facilities; and (4) other access code calls terminated by the IXC's facilities. The problems of collecting compensation are not as overwhelming when a facilities-based carrier handles all call tracking responsibilities, as when those responsibilities are shared with resellers. Therefore, the proposed rule would require for such calls a lower level of call detail that still ensures a basic capability for PSPs to review and audit IXC payments.

Subsection (a)(3) of the rule would allow facilities-based carriers flexibility by giving them a choice of approaches to compensation of calls routed to switch-based resellers. If the IXC chooses to treat all calls completed to the reseller's switch as complete for purposes of compensation, then the reduced reporting requirements of Subsection (a)(2) would apply. If the IXC chooses to arrange with the reseller for tracking of calls to completion, then a higher level of call detail would apply, reflecting the significantly greater risks of compensation collection problems arising under that approach. The IXC must (1) identify to each PSP the resellers involved and their telephone numbers, (2) provide the PSP, with the compensation payment, the volumes of calls for each number, received from each of the PSP's payphones, and (3) provide the PSP the volumes of calls for which

answer supervision was received, for each of the reseller's numbers, that originated from each of the PSP's payphones.

The draft rule also provides flexibility to resellers, permitting the reseller, with the IXC's consent, to establish its own compensation payment arrangements with PSPs. The rule would provide protections to (1) eliminate any confusion or dispute as to the party responsible for payment, (2) ensure that resellers undertaking to pay compensation have a sufficient tracking and payment system, and (3) ensure that a PSP that consents to payment by the reseller will receive the same level of call detail as otherwise required by the rule.

The approach embodied in the draft rule involves payment for actual calls, and is therefore preferable to an approach based on timing surrogates, as advocated by Global Crossing.

As to the petition for reconsideration filed by Bulletins, APCC does not believe that the current rule has the adverse effects feared by Bulletins. However, to alleviate any confusion, the Commission should clarify the rule to make clear that the rule requires LECs to pay compensation when they carry dial-around calls. APCC's comments suggest appropriate clarifying language.

Finally, APCC opposes deferring the effective date of the Commission's amended rule, as proposed by WorldCom. PSPs should not have to wait any longer for a workable system of compensation.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)

CC Docket No. 96-128

File No. NSD-L-99-34

COMMENTS OF THE
AMERICAN PUBLIC COMMUNICATIONS COUNCIL
ON PETITIONS FOR RECONSIDERATION/CLARIFICATION

The American Public Communications Council (“APCC”) hereby comments on the pending petitions for reconsideration and/or clarification¹ of the Commission’s Second Order on Reconsideration in the above-captioned docket. *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Second Order on Reconsideration, 2001 FCC LEXIS 1917 (rel. April 5, 2001) (“Order”).²

¹ AT&T Petition for Clarification and/or Reconsideration, filed May 29, 2001 (“AT&T Pet.”); Bulletins, Petition for Clarification, filed April 16, 2001 (“Bulletins Pet.”); Global Crossing Telecommunications, Inc., Petition for Reconsideration and Clarification, filed May 29, 2001 (“Global Pet.”); WorldCom, Inc., Petition for Declaratory Ruling and Petition for Reconsideration, filed May 29, 2001 (“WorldCom Pet.”).

² See also *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20541 (1996) (“First Payphone Order”), recon., 11 FCC Rcd at 21233 (1996) (“First Reconsideration Order”), affirmed in part and vacated in part *Illinois Public Telecom. Ass’n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997).

I. THE COMMISSION SHOULD RECOGNIZE THAT IXCs MAY REASONABLY CHOOSE TO TREAT CALLS COMPLETED TO RESELLERS' SWITCHES AS COMPENSABLE CALLS

AT&T and WorldCom request the Commission to rule that facilities-based interexchange carriers (“IXCs”)³ may elect to treat calls that are handed off to switch-based resellers as “completed calls” for compensation purposes. APCC supports such a clarification of the Commission’s rules. By treating such calls as completed, IXCs can avoid incurring the expense of obtaining accurate call completion information from the resellers, and at the same time eliminate a major source of compensation disputes. Accordingly, allowing carriers to treat calls completed to resellers as compensable will permit a substantially simplified compensation system, with reduced carrier costs and a more accurate count of compensable calls.

Further, such an approach allows interexchange carriers (“IXCs”), who have the payment obligation under the Commission’s rules, the flexibility to choose how to satisfy that obligation within reasonable parameters. The Commission should not unnecessarily interfere with IXCs’ market decisions in this regard. As to the effect on the IXCs’ customers, such as resellers, under the Commission’s deregulatory policy for the long distance market, the relationships between resellers and their underlying carriers are treated as a private matter. If the approach is not cost-effective for IXCs’ customers, it is likely that another IXC will offer a different approach. The Commission is not being asked to mandate this approach, but merely to declare that it is an option that IXCs may legitimately choose.

³ For simplicity, the abbreviation “IXC” is used in these comments and in the attached draft rule to mean the first facilities-based IXC.

II. ANY MODIFICATION OF THE REPORTING REQUIREMENTS MUST BE CAREFULLY CRAFTED

A. The Reporting Requirements Are Reasonable and Fully Justified

AT&T, WorldCom, and Global Crossing request the Commission to reconsider the reporting requirements adopted in the *Order*. Under these requirements:

The first facilities-based interexchange carrier to which a compensable coinless payphone call is delivered by the local exchange carrier must . . . send back to each payphone service provider at the time dial around compensation is due to be paid a statement in computer readable format indicating the toll-free and access code numbers that the LEC has delivered to the carrier, and the volume of calls for each toll-free and access number each carrier has received from each of that payphone service provider's payphones, unless the payphone service provider agrees to other arrangements.

47 CFR § 64.1310(a).

AT&T, WorldCom, and Global Crossing object to this requirement. They complain that the requirement was not discussed in the Regional Bell Operating Companies' ("RBOCs") petition for clarification cited in the *Order*. AT&T Pet. at 4-5. The carriers argue that the Commission failed to justify imposition of the reporting requirements (Global Pet. at 8), and that the requirements are not necessary or useful (AT&T Pet. at 6; Global Pet. at 9; WorldCom Pet. at 5). They also contend that "significant system modifications" would be needed to comply with the reporting requirement (AT&T Pet. at 5), which "could increase [reporting storage] costs by as much as 15 fold" (WorldCom Pet. at 5).

In fact, the Commission amply justified, based on record evidence, the need for payphone service providers ("PSPs") to obtain call detail from the facilities-based carriers to

whom the calls are routed.⁴ Under the rule adopted in the *First Reconsideration Order*, as the Commission found, all parties involved in the call are able to obtain call detail *except* the payphone service provider (“PSP”). *Order*, ¶12. APCC explained this information deficit in an ex parte submission:

The PSP will have no way of knowing whether [a] particular call was paid for, nor if it was, by which IXC of the 1300 or so IXCs that are billed. The PSP is not provided by any IXC with a list of calls the IXC is paying for. Thus, the PSP cannot compare the SMDR/CDR to a list of calls for which the PSP has been paid to know either the short falls in payment or which calls need to be pursued for collection.

“Narrative to Accompany ‘Call and Dollar Flow in Dial Around Calls from Payphones’” at 5-6 (“APCC Narrative”), attached to Letter from Robert F. Aldrich to Magalie Roman Salas, dated November 15, 2000.

Obtaining this information is especially critical where calls are routed to resellers, and payment is based on whether the call is completed to the reseller’s customer. *See, e.g.*, Comments of APCC, May 17, 1999, at 3 (IXCs generally have provided no information to PSPs about calls routed to resellers).⁵ The virtually uniform experience of PSPs with

⁴ The need for call detail from IXCs was directly addressed by, and is a “logical outgrowth” of the issues raised in, the RBOCs’ petition. RBOC/GTE/SNET Payphone Coalition, Petition for Clarification, filed February 26, 1999 at 3 (“The fundamental problem is that IXCs have claimed that their systems are not designed to provide the level of call detail that would permit reconciliation of the calls sent to their switches and the calls for which they have paid”).

⁵ *See also* Comments of APCC on the Flying J Petition for Declaratory Ruling, CCB/CPD No. 00-04 (May 1, 2000) at 6-9; Reply Comments of APCC on the Flying J Petition for Declaratory Ruling, CCB/CPD No. 00-04 at 5 (May 22, 2000). APCC Services has had a long-running dispute with several IXCs over obtaining sufficient information to enable PSPs to identify calls handled by switch-based resellers. It was only after intervention by the FCC’s Enforcement Bureau and many months of mediation that APCC Services obtained data, in March 1999, for the fourth quarter of 1997. After finally receiving from certain IXCs lists of their alleged switch-based reseller customers, APCC Services found that many companies on those lists were not switch-based resellers at all.

resellers under the compensation system is that resellers cannot be relied upon to accurately track completed calls. To the extent that carriers continue to rely upon resellers for critical information about call completion, there will continue to be a fundamental weakness in the compensation system. It is absolutely critical for PSPs to have fully detailed information about calls routed to resellers, if those calls continue to be paid based on reseller determinations of call completion.

But call detail is also very important when the call involves only a facilities-based IXC. As explained above in the quotation from APCC's November, 2000 submission, the PSP's ability to effectively audit or review the payments it receives from carriers is inherently very limited. Even when the PSP has self-generated call detail records available to it, those records provide only the telephone numbers dialed. They do not identify the carrier handling the call (or, in the case of access code calls, whether calls are completed to the called party). These limitations exist whether or not the call involves a reseller.

In short, under the scheme of the *First Reconsideration Order*, PSPs are totally dependent on an IXC's self-interested judgment as to which calls are compensable, and there is no meaningful "audit trail" that enables PSPs to review the accuracy of IXC

Those resellers claimed that the IXC should have been paying compensation for those calls. In other cases, APCC found that the switch-based reseller had paid payphone surcharges to the IXC and the IXC had failed to remit the payments to the PSPs. Also, the lists obtained from the IXCs named hundreds of alleged switch-based resellers but without the volume of calls passed on to each reseller each quarter by the IXC, so APCC Services had been left to guess at which of the resellers accounted for the largest volumes of compensable calls. While the Commission's assignment of payment responsibility for these types of calls to the first facilities-based IXC will greatly alleviate the problem of identifying the responsible payer, there remains great potential for abuse in the reseller's provision of information to the first facilities-based IXC about the completion of calls. Therefore, it remains critical to ensure provision of adequate information to identify reseller calls.

payments. To address this well-documented problem, the Commission is simply requiring carriers to provide basic information underlying their compensation payments, of the kind that PSPs have requested without success since the beginning of the per-call compensation system.

The carriers' petitions also fail to establish that the reporting requirements are unduly burdensome. The bulk of the information involved is the very information that carriers must collect in order to accurately compensate PSPs. None of the carriers has attempted to quantify the cost of providing such information to PSPs. Further, the carriers' description of the burden involved in providing such information to PSPs completely disregards the existence of centralized collection clearinghouses, such as APCC Services, Inc., PPON, G-5, and DataNet Services, which aggregate compensation collection on behalf of hundreds of individual PSPs and provide a means of greatly reducing any burden involved in reporting information to individual PSPs.

B. The Reporting Requirements May Be Modified Somewhat in Those Cases Where Only One Carrier Is Involved in Tracking the Call

While APCC believes adequate information disclosure by carriers is critical to an effective compensation system, APCC also recognizes that carriers have an interest in reducing their administrative costs. Accordingly, APCC has participated in with a number of parties – the Regional Bell Operating Companies, AT&T, and WorldCom – in discussions aimed at a compromise to address the mutual concerns of carriers and PSPs. The parties have reached consensus on principles that reasonably balance the concerns of

both sides. Attached is a draft proposed amendment to Section 64.1310 of the Commission's rules⁶ that APCC believes accurately captures the parties' consensus.⁷

The draft rule is designed to offer flexibility to IXC's by providing a range of options for implementing payphone compensation for calls routed to switch-based resellers. The draft rule balances the needs of carriers for flexibility with the need of PSPs for data. Thus, the rule allows a range of payment options with data and record requirements coordinated with the level of responsibility assumed for payment by IXC's or resellers. There are several key features to the amended rule.

First, the draft amendment to Section 64.1310(a) provides that reduced reporting requirements apply to calls that can be tracked to completion within a single carrier's network. For those calls, where the *Second Order on Reconsideration* requires IXC's to provide, for each payphone, the volumes of calls delivered to each toll-free or access code number, Subsection (a)(2) of the draft amendment would require IXC's to provide, for each payphone, the monthly volumes of calls falling in each of four categories: (1) subscriber toll-free calls; (2) prepaid card calls terminated by the IXC's facilities; (3) 0+ and 101XXXX-0+ calls terminated by the IXC's facilities; and (4) other access code calls terminated by the IXC's facilities. In order to ensure that the PSP can review these totals

⁶ Attachment 1 shows all the payphone compensation provisions of the Rules, so that the amended Section 64.1310(a) can be seen in context. In addition, APCC suggests technical amendments to the compensation provisions to change references to "Section 64.1300(a)" of the rules to refer to "Section 64.1300". This technical change is consistent with the Commission's obvious intent that the various requirements of Section 64.1310 apply not only to the contractual compensation that is specified in Section 64.1300(a), but also to the non-contractual dial-around compensation specified in Section 64.1300(c).

⁷ Some, but not all, of the parties concur in the specific language of the attached rule. In proposing and describing this rule, APCC is not purporting to speak for other parties.

against its own call detail records, which typically record only attempts, the IXC would be required to provide, quarterly, the call completion percentages for each call category.

The underlying rationale is that a reduced level of reporting detail is needed for this category of calls since one carrier, the facilities-based carrier, addresses the entire issue of call tracking within its own network. Where a facilities-based carrier handles all call-tracking responsibilities, the problems of collection generally are not as overwhelming as when those responsibilities are shared with resellers. Accordingly, the PSP does not require the same level of detailed payment information as is needed when the PSP must address the problem of matching up its own call detail records with call payment records identifying calls to specific resellers. At the same time, the PSP will still receive a level of detail that will ensure a basic level of capability to review and audit IXC payments. This approach is also balanced because, while the number of compensable calls will increase, carrier administrative costs will decrease. Not only do carriers have to report less call detail, but both carriers and resellers are relieved of responsibility for tracking reseller calls to ultimate completion.

Second, Subsection (a)(3) of the rule would allow facilities-based carriers flexibility by giving them a choice of approaches to compensation of calls that they route to switch-based reseller customers. Subsection (a)(3)(A) of the draft amendment would allow IXCs, if they choose, to treat all calls completed to the reseller's switch as compensable – as discussed in the petitions of AT&T and WorldCom. Under the draft rule approach, a carrier that takes this approach would thereby not only simplify its tracking obligations (by eliminating the need to obtain call completion information from its resellers), but also substantially reduce its reporting obligations. Under this option, the reduced reporting requirements of Subsection (a)(2) would apply to calls to resellers as well as other dial-

around calls, enabling the IXC to reduce its reporting requirements for all calls. Calls terminating in reseller switches would be simply classified as toll-free subscriber calls. Again, by choosing to eliminate any responsibility on the part of its reseller customers to track calls, the IXC would eliminate the major compensation collections problems which have been demonstrated to arise when resellers are involved, and thereby permit a lower level of data reporting obligation for such calls.

Alternatively, Subsection (a)(3)(B) would allow the carrier, with a particular switch-based reseller's agreement, to follow the approach contemplated in the *Second Order on Reconsideration*, and establish a call tracking arrangement with the reseller, whereby the reseller tracks calls to completion and provides a data feed of completed calls to the facilities-based IXC. Under this approach, IXCs must report a level of call detail to PSPs that is similar to the call detail required by the *Second Order on Reconsideration* rule. Specifically, IXCs must (1) identify to each PSP the resellers involved and their toll-free and access code numbers, (2) provide the PSP, with the compensation payment, the volumes of calls for each number, received from each of the PSP's payphones, and (3) provide the PSP the volumes of calls for which answer supervision was received, for each of the reseller's numbers, that originated from each of the PSP's payphones. Because the call tracking responsibility would be shared with the reseller, there would be a greater risk of compensation collection problems, justifying more detailed data reporting requirements than when tracking takes place entirely within the IXC's network.

Thus, the rule recognizes that the need for detailed reporting of information to PSPs is greatest in those situations where switch-based resellers are involved in tracking completion of the call. Accordingly, the rule applies detailed reporting requirements to

address the kinds of problems that have been shown to arise when participants in the compensation system must rely on call tracking by potentially hundreds of resellers.

At the same time, the rule provides additional flexibility to switch-based resellers. As with the *Second Order on Reconsideration* rule, Section 64.1310(a)(4) of the draft rule would permit the reseller, with the IXC's consent, to establish its own compensation payment arrangements with PSPs. However, the draft rule adds protections to eliminate any confusion or dispute as to whether the facilities-based IXC or the reseller is the party responsible for payment. Specifically, the reseller's agreement with the PSP must provide that the PSP agrees to accept compensation from the reseller and that the IXC is released from all payment obligation.

In addition, the rule contains a safeguard to ensure that resellers who undertake to pay compensation on their own have sufficient IXC support to provide an effective tracking and payment system. Under Subsection (a)(4)(B)(i) of the draft rule, unless the agreement explicitly provides otherwise, the reseller must have, and must make available to the PSP, documentation substantiating the reseller's ability to track, and compensate the PSP for, compensable calls.

Finally, the draft rule contains provisions to ensure that a PSP that consents to receive compensation payments from a reseller will obtain the same level of call data as if it were receiving payment from the IXC based on call tracking by the reseller. Thus, Subsection (a)(4)(B)(ii) requires the reseller (unless the agreement expressly provides otherwise) to identify its toll-free and access code numbers and to disclose to the PSP, with its payment, the volumes of calls completed to each of its toll-free and access code numbers from each of the PSP's payphones. And, as under the corresponding provision of Subsection (a)(3), the IXC must provide the volume of calls for which answer supervision

was received, for each of the reseller's numbers, that originated from each of the PSP's payphones.

The approach embodied in the draft rule involves payment for actual calls, and is for that reason preferable to an approach based on timing surrogates, as advocated by Global Crossing. While the use of surrogates may be appropriate in certain contexts, it raises a number of issues, including the statistical basis for the surrogate, fairness to differently situated parties, and the need for updating. These issues need not be faced here, because there is a workable solution based on actual calls, which has the assent of key parties from both the IXC and PSP sides of the compensation system.

III. WHILE THE CLARIFICATION REQUESTED BY BULLETINS IS NOT NECESSARY, THE COMMISSION SHOULD UTILIZE THIS OPPORTUNITY TO EXPLAIN THE APPLICATION OF ITS RULES TO LECs THAT CARRY COMPENSABLE CALLS

In its petition for clarification, Bulletins expresses concern that, in amending its compensation rule, the Commission may have inadvertently (1) allowed local exchange carriers ("LECs") who handle compensable calls without the involvement of any IXC to escape payment of compensation for those calls, and (2) allowed IXCs to avoid payment for calls for which the originating LEC is a competitive LEC. APCC does not believe the current rule has the adverse effects feared by Bulletins. However, in order to alleviate any confusion about the meaning of the rule, APCC recommends that the Commission provide an appropriate clarification.

There can be little question that, just as IXCs who carry coinless calls for which PSPs are not compensated by contract, are required to compensate PSPs for such calls, LECs who carry such calls without the involvement of an IXC are also required to pay compensation to the PSP. Any other result, of course, as Bulletins points out, would be a

clear violation of Section 276, which requires the Commission to ensure that PSPs are compensated for “each and every” completed call using their payphones. As Bulletins also points out, in the *First Payphone Order*, the Commission made clear that LECs who carried otherwise compensable calls were required to pay compensation in the same manner as an IXC. *First Payphone Order*, ¶ 341 (cited in Bulletins Pet. at 3). Nothing in the Commission’s *Second Reconsideration Order* indicates any intent to reconsider that determination. Therefore, it is clear that the term “first facilities-based interexchange carrier” is intended to refer to the LEC in those situations where, under the Commission’s earlier orders, the LEC has been required to pay compensation.

Nevertheless, there is potential for confusion to arise, as Bulletins points out, from the use of the words “first facilities based interexchange carrier to which a completed coinless access code or subscriber toll-free payphone call is delivered by the local exchange carrier”. Therefore, APCC suggests that the Commission amend its rule by replacing the words “the LEC” with “a LEC” in the text of Sections 64.1300(a) and 64.1310(a), and by including the following “note”:

NOTE: If a LEC that originates an access code or subscriber 800 call made using a payphone (or that has such a call delivered to it by an originating LEC) completes that call to an end user, or terminates the call to (and receives answer supervision from) a subscriber to a toll-free service, then that LEC is considered to be the “first facilities-based IXC” and is required to pay compensation to the PSP for completed calls as described in this Subpart.

IV. IMPLEMENTATION DATE

WorldCom requests that the Commission defer the date for carrier implementation of tracking capabilities until the beginning of the first calendar quarter after the current effective date, i.e., January 1, 2002. WorldCom also requests that reports to PSPs of call information under the new requirement not be due until payments are made for the first

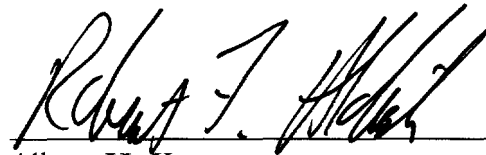
quarter of 2002, which WorldCom states is July 1, 2002. APCC opposes these proposed changes. PSPs have waited five years for a workable system of payphone compensation. There is no legitimate reason why they should wait longer. Especially in light of the significant reduction in IXC's tracking and reporting obligations made possible by the proposed changes discussed above, IXCs have no need for additional time to prepare for compliance with the *Second Order on Reconsideration*.

CONCLUSION

In accordance with the foregoing comments, the Commission should grant in part and deny in part the pending petitions for reconsideration.

Dated: October 9, 2001

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich", written over a horizontal line.

Albert H. Kramer
Robert F. Aldrich

2101 L Street, N.W.
Washington, D.C. 20037-1526
(202)828-2226

Attorneys for the American Public
Communications Council

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2001, a copy of the foregoing Opposition of the American Public Communications Council to Sprint Corporation's Request for Stay was delivered by first-class U.S. Mail, postage pre-paid to the following parties:

Michael K. Powell
Chairman
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5C-450
Washington, DC 20554

Qualex International
445 12th Street, S.W.
Room CY-B402
Washington, DC 20554

Michael J. Shortley III
Global Crossing Telecommunication, Inc.
180 S. Clinton Avenue
Rochester, NY 14646

Mark C. Rosenblum
Richard H. Rubin
AT&T Corporation
295 North Maple Avenue
Room 3252I3
Basking Ridge, NJ 07920

Carl W. Northrop
Emmett A. Johnston
Paul, Hastings, Janofsky & Walker
1299 Pennsylvania Avenue, NW
10th Floor
Washington, DC 20004-2400

Lawrence Fenster
MCI WorldCom, Inc.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Rachel J. Rothstein
Brent Olson
Cable & Wireless, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Glenn B. Manishin
Stephanie A. Joyce
Blumenfeld & Cohen
Technology Law Group
1625 Massachusetts Avenue, NW
Suite 300
Washington, DC 20036

Michael K. Kellogg
Aaron Panner
Kellogg Huber Hansen Todd & Evans
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, DC 20036-3209

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, N.W.
Suite 701
Washington, DC 20006

Linda L. Oliver
Yaron Dori
Hogan & Hartson, L.L.P.
555 13th Street, N.W.
Washington, DC 20004

Audrey Wright
Cable & Wireless USA Inc.
1130 Connecticut Ave., NW
Suite 1200
Washington, DC 20036

Commissioner Gloria Tristani
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 8-B115
Washington, DC 20554

Commissioner Michael J. Copps
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 8-A302
Washington, DC 20554

Commissioner Kevin J. Martin
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 8-C302
Washington, DC 20554

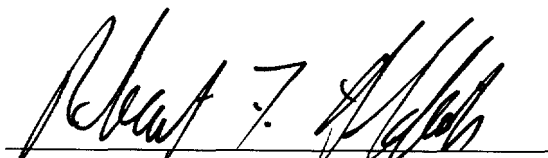
Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
Sprint Communications Company, L.P.
401 9th Street, N.W.
Suite 400
Washington, DC 20004

Genevieve Morelli
Senior Vice President
Quest Communications Group
4250 North Fairfax Dr.
Arlington, VA 22203

Jeff Carlisle
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-C356
Washington, DC 20554

David P. Murray
Randy J. Branitsky
Kurt W. Hague
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st St., NW
Washington, DC 20036

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 8-A204
Washington, DC 20554


Robert F. Aldrich

ATTACHMENT 1

PROPOSED AMENDMENT TO THE FCC'S COMPENSATION RULES

Section 64. 1300

- (a) Except as provided herein, the first facilities-based interexchange carrier to which a completed coinless access code or subscriber toll-free payphone call is delivered by the local exchange carrier shall compensate the payphone service provider for the call at a rate agreed upon by the parties by contract.
- (b) The compensation obligation set forth herein shall not apply to calls to emergency numbers, calls by hearing disabled persons to a telecommunications relay service or local calls for which the caller has made the required coin deposit.
- (c) In the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of \$.24.

Section 64.1310

(a)(1) Except as provided in Section 64.1310(a)(4), It is the responsibility of the first facilities-based interexchange carrier ("IXC") to which a compensable coinless access code or subscriber toll-free payphone call is delivered by the local exchange carrier to track, or arrange for the tracking of, each such call so that it may accurately compute the compensation required by Section 64.1300(a). ~~The first facilities-based interexchange carrier to which a compensable coinless payphone call is delivered by the local exchange carrier must also send back to each payphone service provider at the time dial around compensation is due to be paid a statement in computer readable format indicating the toll-free and access code numbers that the LEC has delivered to the carrier, and the volume of calls for each toll free and access number each carrier has received from each of that payphone service provider's payphones, unless the payphone service provider agrees to other arrangements.~~

(2) For all toll-free and access code calls other than calls terminated by the IXC to a reseller's switch, the IXC must provide to each payphone service provider ("PSP"), at the time dial-around compensation is due to be paid, a statement in computer readable format indicating the volumes of compensated calls originating from each of the PSP's payphones, for each month covered by such payment, classified in the following categories:

- (A) subscriber toll-free calls;
- (B) prepaid card calls terminated by the IXC's facilities;
- (C) 0+ and 101XXXX-0+ calls terminated by the IXC's facilities; and
- (D) other access code calls terminated by the IXC's facilities.

The IXC also will report to PSPs, quarterly, within 30 days of the end of the quarter for which the report is issued, the average call completion percentage for calls in each category. If feasible, this information shall be based on calls originating from payphones in each

quarter. The IXC will arrange a third party annual review of their payphone compensation systems and processes and the system and process for determining completion rates for the above categories of calls.

(3) For toll-free and access code calls that the IXC terminates to a reseller's switch, except as provided in Section 64.1310(a)(4), the IXC must implement its compensation obligations, with respect to all calls terminated to a particular reseller, in accordance with either paragraph (A) or paragraph (B) immediately following.

(A) The IXC must compensate PSPs for all toll-free and access code calls for which answer supervision is received in the IXC's network, from whatever source, without regard to whether or not such calls are completed to the called party. The IXC must classify such calls as falling within Section 64.1310(a)(2)(A), and must provide to each PSP the same information required by Section 64.1310(a)(2); or

(B) By agreement with the reseller, the IXC may compensate PSPs only for toll-free and access code calls that are completed to the called party. Upon execution of the agreement with the reseller, the IXC must identify to each PSP the name and address of that reseller and the toll-free and access code numbers that are covered by the IXC's agreement with the reseller. The IXC must obtain from the reseller a data feed showing all compensable calls, and must provide to each PSP, at the time dial-around compensation is due to be paid, a statement in computer readable format indicating the volumes of compensable calls, for each of the reseller's toll-free and access code numbers, that originated from each of the PSP's payphones. Additionally, the IXC must provide to each PSP, at the time dial-around compensation is due to be paid, a statement in computer readable format indicating the volumes of calls for which answer supervision was received in the IXC's network, for each of the reseller's toll-free and access code numbers, that were delivered from each of the PSP's payphones.

(4) If the switch based reseller has agreed with the PSP and the IXC, respectively, that the reseller shall compensate the PSP for all compensable calls terminated to the reseller's switch, then the IXC is not required to compensate the PSP for calls terminated to that reseller. The compensation obligations of the parties shall be as specified in such agreements, provided, however, that:

(A) The reseller's agreement with the PSP must expressly provide that the PSP agrees to accept compensation from the reseller and that the IXC, as a third party beneficiary, is released from all payment obligation; and

(B) Unless explicitly provided otherwise in the PSP's agreement with the reseller:

(i) The reseller must have, and must make available to the PSP, documentation substantiating the reseller's ability to track, and compensate the PSP for, compensable calls;

(ii) The reseller must provide to the PSP, at the time dial-around compensation is due to be paid, a statement in computer readable format identifying the reseller's toll-free and access code numbers and indicating the volumes of compensable calls, for each of the reseller's toll-free and access code numbers, that originated from each of the PSP's payphones;

(iii) The IXC must provide to the reseller, and the reseller must forward to the PSP, at the time dial-around compensation is due to be paid, a statement in computer readable format indicating the volume of calls for which answer supervision was received in the IXC's network, for each of the reseller's toll-free and access code numbers that were delivered from each of the PSP's payphones.

(b) The first facilities-based interexchange carrier to which a compensable coinless payphone call is delivered by the local exchange carrier may obtain reimbursement from its reseller and debit card customers for the compensation amounts paid to payphone service providers for calls carried on their account and for the cost of tracking compensable calls. Facilities-based carriers and resellers may establish or continue any other arrangements that they have with payphone service providers for the billing and collection of compensation for calls subject to Section 64.1300~~(a)~~, if the involved payphone service providers so agree.

(c) Local Exchange Carriers must provide to carriers required to pay compensation pursuant to Section 64.1300~~(a)~~ a list of payphone numbers in their service areas. The list must be provided on a quarterly basis. Local Exchange Carriers must verify disputed numbers in a timely manner, and must maintain verification data for 18 months after close of the compensation period.

(d) Local Exchange Carriers must respond to all carrier requests for payphone number verification in connection with the compensation requirements herein, even if such verification is a negative response.

(e) A payphone service provider that seeks compensation for payphones that are not included on the Local Exchange Carrier's list satisfies its obligation to provide alternative reasonable verification to a payor carrier if it provides to that carrier: (1) A notarized affidavit attesting that each of the payphones for which the payphone service provider seeks compensation is a payphone that was in working order as of the last day of the compensation period; and (2) Corroborating evidence that each such payphone is owned by the payphone service provider seeking compensation and was in working order on the last day of the compensation period. Corroborating evidence shall include, at a minimum,

the telephone bill for the last month of the billing quarter indicating use of a line screening service.